THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25218 OF 2005

DATED:28.11.2005

Between:

A. Venkata Subbaiah

…Petitioner

And

The District Panchayat Officer,

Nellore District, Nellore and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25218 OF 2005

ORDER:

The petitioner is Sarpanch of Kakutur Village, Venkatachalam Mandal, Nellore District. By the impugned show cause notice dt.20.5.2005, first respondent suspended the cheque drawing powers of the Sarpanch under Rule 42 of the Rules, Relating to Certain Taxes & Other Lodging of Moneys received by the Gram Panchayat and Payment of Money from the Gram Panchayat Fund, issued in G.O.Ms.No.30, Panchayat Raj and Rural Development Department, dt.20.1.1995 (for short, the Rules) and called upon the petitioner to submit explanation as to why necessary action should not be taken against him.

Learned counsel for the petitioner, Sri D.Sudarshan Reddy, vehemently contends

that Rule 42(1) of the Rules enables the first respondent to withdraw cheque drawing powers of executive authority, i.e., Panchayat Secretary, but no such power inheres to suspend the cheque drawing powers exercised by Sarpanch under Rule 40 of the Rules. He also vehemently argues that the allegations made in the impugned show cause notice are vague and therefore first respondent could not have suspended the cheque drawing powers of the Sarpanch.

A reading of the impugned order would show that it is an order passed under second proviso to sub-rule (1) of Rule 42 of the Rules. Therefore, the petitioner can as well make a representation/give explanation to the show cause notice whereupon the first respondent can consider all these aspects. As the petitioner himself is admittedly cheque drawing authority in respect of the funds at the disposal of the Gram Panchayat, the Sarpanch is also comes within the expression “any executing authority” in exercise of power under Section 42(1) of the Rules. Further, though the order was passed, way back in May, 2005, the petitioner approached this Court with a considerable delay of six months. Therefore, it would not be proper to adjudicate the dispute at this stage.

In the result, for the above reasons, the Writ Petition is disposed of giving liberty to the petitioner to submit explanation, along with records, to the impugned show cause notice within a period of one week from the date of receipt of a copy of this order, whereupon the first respondent shall consider the records and explanation and pass appropriate orders under Rule 42(1) of the Rules.

The Writ Petition is accordingly disposed of.

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(V.V.S.RAO, J)

28.11.2005

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